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Summary record (partial)* of the 2709th meeting

Held at Headquarters, New York, on Wednesday, 24 March 2010, at 10 a.m.

Chair: Ms. Majodina (Vice-Chair)
later: Mr. Iwasawa (Chair)

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* No summary record was prepared for the rest of the meeting.

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In the absence of Mr. Iwasawa, Ms. Majodina, Vice-Chair, took the Chair.

The meeting was called to order at 10.15 a.m.

Progress report of the Special Rapporteur for follow-up on concluding observations
(CCPR/C/98/2/CRP.1)

1. **Mr. Amor**, speaking as Special Rapporteur for follow-up on concluding observations, introduced his report, which related to concluding observations the Committee had adopted from the eighty-fifth through the ninety-fourth sessions. He reviewed, country by country, the status of the response to the concluding observations and the action he had recommended to be taken in each case.

2. Again, the Committee was being handicapped by the lack of translation services. In a number of instances, information received from States parties still required translation, and he had recommended that it should be reviewed at the next session. Tunisia, having just submitted overdue information, now fell into that category and the report would have to be amended accordingly. On the other hand, the response of the United Nations Interim Administration Mission in Kosovo (UNMIK) had just been translated, and the report would be amended to recommend simply review at the next session. Furthermore, Sweden had just sent in its replies, well ahead of schedule, and would have to be included in the report as well, with a recommendation for review at the next session.

3. In a number of cases, the report recommended sending initial or further reminders of overdue responses. In others, after several unheeded reminders, he was recommending that he should meet with a State party representative to draw attention to the issue.

4. Reminders would also be sent to several States parties which had not submitted any of the additional information requested subsequently by the Committee. Four States which were due to submit periodic reports and which had ignored repeated reminders and/or meetings with a State party representative about the additional information would be asked to include it in their forthcoming reports. In answer to a query by Mr. O'Flaherty, he said that was done as a matter of policy when periodic reports had fallen due at that stage.

5. Letters would be sent to a few States indicating that their replies had been largely satisfactory but that some additional information was required, and highlighting the instances where they had failed to implement recommendations in the concluding observations. In addition, the submission of Denmark had now been translated, and the report would be amended to show that it would be asked to submit some information in addition to its largely satisfactory replies. Lastly, the response of Austria had been on the whole satisfactory, and no further action was recommended.

6. **Ms. Schleker** (Office of the High Commissioner for Human Rights) said that the secretariat would incorporate the minor drafting changes relating to UNMIK suggested by Mr. Thelin.

7. **Mr. Thelin** asked the Special Rapporteur whether the Central African Republic could not also be asked to include its long-delayed response to the concluding observations in its periodic report due in August 2010.

8. **Mr. Amor**, noting that follow-up procedures differed from those involved in reviewing a country situation in the absence of a report, said that he preferred in the case of the Central African Republic to follow the usual sequence, namely, first establishing contact with a State party representative after numerous reminders, before moving on to the next step. He therefore stood by his recommendation, and would seek a meeting in Geneva.

9. **Mr. O'Flaherty** suggested that in all instances where the State party was to be informed that its replies had been only partially satisfactory or had not been in line with Committee recommendations, the Special Rapporteur should indicate in the report which specific paragraphs of the concluding observations were at issue. That had been done in some cases but not in others.

10. **Mr. Amor** said that he would be glad to include paragraph references in every such case. The letters to the States parties were always very specific, of course.

11. *The recommendations contained in the report of the Special Rapporteur for follow-up on concluding observations, as orally amended, were approved.*

12. **Mr. O'Flaherty**, supported by **Ms. Motoc**, noted that the Committee's work had been delayed by problems with translation in several instances. He

proposed that the idea of appointing a Rapporteur for each language should be revisited.

13. **Mr. Salvioli** said that the failure of States parties to comply could be an indication that the Committee's recommendations were too general. Precise recommendations would help the Special Rapporteur with his work and States parties with compliance.

14. **Ms. Chanet** noted that translation had not been a problem when an English speaker had been the Special Rapporteur. She agreed that more targeted recommendations would be helpful.

15. **Sir Nigel Rodley** said that translation delays had been no less an issue in the case of the English-speaking Special Rapporteur.

16. **Mr. Amor** said that the translation issue was not tied to the person of the Special Rapporteur and that translations should be made available for the benefit of the entire Committee. Using one Special Rapporteur per language would change nothing.

17. To encourage States to respond in full and in a timely manner, the Committee needed to limit the number of priority questions and be conscious of how feasible the response would be for the State party. The Committee tended to ask too many questions and make requests that could not be satisfied within the span of one year.

18. *Mr. Iwasawa took the Chair.*

Draft report of the tenth inter-committee meeting

19. **The Chair** drew attention to the draft report of the tenth inter-committee meeting held in Geneva in November 2009, on the theme of follow-up procedures. Mr. Amor, the Special Rapporteur for follow-up on concluding observations, and Sir Nigel Rodley, in place of Ms. Wedgwood, the Special Rapporteur for follow-up on Views, had represented the Committee.

20. **Sir Nigel Rodley** said that the two main issues under consideration at the meeting had been the harmonization of procedures and follow-up on the work of the committees. Focusing on the draft points of agreement of the tenth inter-committee meeting, he noted the proposal to create a working group for follow-up on treaty body output, comprising one subgroup for follow-up on general observations and inquiries and one subgroup for follow-up on individual communications. Committee members responsible for follow-up would represent their respective committees. The working group would meet annually and would be reviewed two years after its expected confirmation at the meeting of chairpersons in July 2010. In order to remain within existing resources, one inter-committee meeting would be held per year rather than two, which would be attended by committee chairs plus one member of each committee.

21. Harmonization would be a standing agenda item at future annual inter-committee meetings. The use of focused reports and lists of issues would be the theme of the next inter-committee meeting. Treaty bodies having already established, or in the process of establishing, the focused report approach would send members in charge of implementing the new procedure to the meeting.

22. The inter-committee meeting had asked the Secretariat to monitor developments within the International Law Commission pertaining to issues that had originally prompted the creation of the inter-committee working group on reservations, but no information had been forthcoming. He wished to remind the Secretariat of that request, since the information was needed in order to determine whether there was a need for the working group to reconvene.

23. **Mr. Amor** said that in his view, the creation of two subgroups for follow-up would give the follow-up process greater weight. Holding one inter-committee meeting per year would be useful insofar as it would be dedicated to a specific harmonization issue. With respect to reconvening the working group on reservations, that issue had particular relevance for the Committee with respect to individual communications, considering the Committee's general comment No. 24 and its practice of assessment of reservations. The Human Rights Committee should indicate its wish to see the working group reconvened.

24. **Mr. Thelin**, with respect to the possibility mentioned in the draft report of other thematic working groups being established, asked whether the inter-committee meeting had considered the topic of the failure by States parties to comply with the Convention and the deadlines set by treaty bodies in their follow-up procedures and whether sanctions could be envisaged.

25. He also wished to reiterate the need to address two problems facing the Committee: the backlog due to reporting failures, including failure to submit initial

reports, and the backlog in communications. He requested the Secretariat to present to the Committee ways to rectify those two problems.

26. **Ms. Motoc**, referring to the last meeting of the inter-committee working group on reservations, observed that different positions had been voiced that had not been reflected in general comment No. 24. The time had come to revisit the Committee's approach to reservations in the light of recent developments in other forums.

27. **Mr. Salvioli** said that the Committee had a great deal of shared ground with other committees because the Covenant covered a range of political and civil rights. Inter-committee meetings should not only harmonize working criteria but also the substance of the work produced. To make progress with international protections, the Committee should incorporate the more focused visions of other committees. The committees must mutually reinforce each other's work as an explicit part of a joint strategy, thereby strengthening the treaty body system.

28. **Ms. Chanet** expressed satisfaction at the progress made by the inter-committee meetings. With regard to the subgroup for follow-up on individual communications, since the Committee dealt extensively with individual communications and case law, other committees would benefit from awareness of its case law and follow-up procedure.

29. It made the committees stronger to coordinate their stances and work together when a State party provided unsatisfactory or diverging answers to the different committees. Since the Secretariat had to provide minutes on concluding observations for use in the universal periodic review, it would be useful to include follow-up that brought together comments shared by all the committees.

30. She concurred with the view that the work of the International Law Commission should be monitored. The Committee had made a major step in accepting that treaty bodies could issue opinions on reservations and it should not be disconnected from the work of the International Law Commission.

31. **Ms. Majodina** said that she agreed that committees needed to work together in a mutually reinforcing manner. Beyond harmonizing follow-up procedures and reporting systems, committees should cross-reference each other's work.

32. **The Chair**, speaking in his capacity as an expert, asked what was expected of the Committee with respect to the recommendation of the tenth inter-committee meeting that each treaty body should complete an assessment and an analysis of its follow-up procedure by 2011.

33. With regard to reservations, the International Law Commission had already adopted a position with respect to reservations on human rights treaties that was highly relevant to the work of the Committee.

34. **Sir Nigel Rodley** said that it was regrettable that the committees had not yet been informed by the Secretariat of the exact nature of recent developments in the International Law Commission's work with regard to reservations, and hoped that the information would be conveyed. Nevertheless, as it might still be wise to take stock of the situation in the light of those developments, he would welcome a Committee recommendation to reconvene the working group on reservations.

35. Turning to the issue of assessment and analysis of follow-up procedures, he noted that the general expectation expressed at the inter-committee meeting was that the Secretariat would pull together information on the practice so that individual committees and their representatives could take stock of the overall picture and determine what action was needed. One advantage of preparing such a stocktaking was that it would help to preserve the pioneering spirit of treaty bodies despite the tendency of the harmonization process to stifle creativity and entrench individual methodologies.

36. The extent to which backlog had been discussed in relation to follow-up was addressed in paragraph 17 of the draft report. The broader issue of backlog was constantly before the Committee, and he agreed with Mr. Thelin that the proposed working group on follow-up should focus on ways of addressing it cooperatively.

37. By and large, harmonization of substance was a process that would not easily be addressed by the inter-committee meeting. Harmonization of the Committee's work depended on the Secretariat's assistance, in particular its provision of the concluding observations of other treaty bodies during the Committee's consideration of periodic reports. It was up to the Committee to decide whether to use more of the language of those treaty bodies than it was currently using. Furthermore, he would appreciate more input

from the Secretariat, not only on the practice of other treaty bodies when dealing with individual cases, but on relevant case law from the regional courts as well, even if it had not been litigated by the parties. While the Committee was not obligated to take on board the ideas and positions of other committees, awareness of those positions would help to inform its decision-making.

38. **Mr. Amor**, welcoming the idea that the proposed working group on follow-up should be divided into subgroups on individual communications and concluding observations, said that the Committee should take up the assessment of its follow-up procedures at its next session, if possible, in order to develop them further and thereby increase their relevance. Committee members should also continue to follow attentively the progress made by the International Law Commission with regard to reservations, a matter of particular concern to all treaty bodies.

39. Greater inter-committee cooperation could indeed be achieved without prejudice to the provisions of the individual treaties that gave the committees their mandates; however, some committees were resistant to the idea, instead affirming the specificity of their mandates to a degree that all but ruled out such cooperation. While that resistance must be taken into account, realistic measures to promote cooperation could yet be proposed.

40. Treaty bodies were more likely to adopt comparable concluding observations on common issues, such as the matter of reservations, than on specific treaty provisions. The Committee could draw on its previous work, which included general comment No. 24 on reservations to the Covenant, to take the lead in pushing for greater harmonization in that area.

The discussion covered in the meeting ended at 12.10 p.m.